International Seabed Authority

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Legal and Technical Commission

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Proposed amendments to regulation 21 of the Regulations on Prospecting and Exploration for Polymetallic Sulphides in the Area

Note by the secretariat

1. The Legal and Technical Commission will recall that in 2013 the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area (Nodules Regulations) were revised[1] to bring them into line with the Regulations on Prospecting and Exploration for Polymetallic Sulphides in the Area (Sulphides Regulations).[2] It was also decided to align the fee provision in the Nodules Regulations with the corresponding fee provision in the Regulations on Prospecting and Exploration for Cobalt-rich Ferromanganese Crusts in the Area (Cobalt Crusts Regulations).[3]

2. As a result, the corresponding fee provision in regulation 21 of the Sulphides Regulations is now inconsistent with both the Nodules Regulations and the Cobalt Crusts Regulations. In order to address the inconsistency, the Council of the International Seabed Authority decided in 2013 to request the Commission to make a recommendation to revise regulation 21 of the Sulphides Regulations.[4]

3. Existing regulation 21 of the Sulphides Regulations[2] and the suggested revised regulation are reproduced in the annex to the present document. The Commission is invited to consider the revised regulation and to make a recommendation thereon for the consideration of the Council at its twentieth session, in July 2014.

[1] ISBA/19/A/9.
[2] ISBA/16/A/12/Rev.1.
[3] ISBA/18/A/11.
[4] ISBA/19/C/17.

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Annex

Regulation 21 of the Regulations on Prospecting and Exploration for Polymetallic Sulphides in the Area

A. Existing regulation

Regulation 21
Fee for applications

1. The fee for processing a plan of work for exploration for polymetallic sulphides shall be:

(a) A fixed fee of 500,000 United States dollars or its equivalent in a freely convertible currency, payable by the applicant at the time of submitting an application; or

(b) At the election of the applicant, a fixed fee of 50,000 United States dollars or its equivalent in a freely convertible currency, payable by the applicant at the time of submitting an application, and an annual fee calculated as set out in paragraph 2.

2. The annual fee shall be calculated as follows:

(a) 5 United States dollars multiplied by the area factor from the date of the first anniversary of the contract;

(b) 10 United States dollars multiplied by the area factor from the date of the first relinquishment in accordance with regulation 27(2); and

(c) 20 United States dollars multiplied by the area factor from the date of the second relinquishment in accordance with regulation 27(3).

3. The "Area Factor" means the number of square kilometres comprised in the exploration area at the date upon which the periodic payment in question becomes due.

4. Upon notification by the Secretary-General that the amount of the fee has been insufficient to cover the administrative costs incurred by the Authority in processing an application, the fee set out in paragraph 1 (a) of this regulation shall be reviewed by the Council.

5. If the administrative costs incurred by the Authority in processing an application are less than the fixed amount, the Authority shall refund the difference to the applicant.

B. Suggested revision

Regulation 21
Fee for applications

1. The fee for processing an application for approval of a plan of work for exploration for polymetallic sulphides shall be a fixed amount of 500,000 United States dollars, or its equivalent in a freely convertible currency, to be paid in full at the time of the submission of an application.

2. If the administrative costs incurred by the Authority in processing an application are less than the fixed amount, the Authority shall refund the difference to the applicant. If the administrative costs incurred by the Authority in processing an application are more than the fixed amount indicated in paragraph 1 above, the applicant shall pay the difference to the Authority, provided that any additional amount to be paid by the applicant shall not exceed 10 per cent of the fixed fee referred to in paragraph 1.

3. Taking into account any criteria established for this purpose by the Finance Committee, the Secretary-General shall determine the amount of such differences as indicated in paragraph 2 above and notify the applicant of the amount. The notification shall include a statement of the expenditure incurred by the Authority. The amount due shall be paid by the applicant or reimbursed by the Authority within three months of the signing of the contract referred to in regulation 25 below.

4. The fixed amount referred to in paragraph 1 above shall be reviewed on a regular basis by the Council in order to ensure that it covers the expected administrative costs of processing applications and to avoid the need for applicants to pay additional amounts in accordance with paragraph 2 above.